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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/888,280 | 06/21/2001 | Peter Warren | 4E04.1-060 | 8687 |

7590 10/22/2004

GARDNER GROFF MEHRMAN & JOSEPHIC, P.C.
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Marietta, GA 30067

EXAMINER

BUI, BING Q

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2642

DATE MAILED: 10/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/888,280

Applicant(s)

WARREN, PETER

Examiner

Bing Q Bui

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 23-27 is/are rejected.
- 7) ☒ Claim(s) 16-22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-27 are pending in the application for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-6, 8-11, 15 and 23-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Glezerman (Pub. No. US 2002/0098877 A1).

Regarding claim 1, Glezerman teaches an eyeglasses for audio communication with a remote electronic device, comprising:

- a) an eyeglasses frame (see fig. 3, element 240);
- b) a microphone coupled to the frame (see fig. 3, element 140);
- c) a transmitter coupled to the frame, in communication with the microphone, and adapted to send wireless signals to the remote electronic device (see fig. 5, element 500 and section [0027]);
- d) at least one speaker (e.g. earphone) coupled to the frame (see fig. 3, element 150); and

e) a receiver coupled to the frame, in communication with the speaker, and adapted to receive wireless signals from the remote electronic device (see fig. 5, element 500 and section [0027]).

Regarding claim 2, Glezerman teaches the eyeglasses of claim 1, wherein the eyeglasses frame comprises a lens holder and two support arms, with the microphone coupled to one of the support arms and each speaker coupled to one of the support arms (see fig. 3 and section [0006]).

Regarding claim 3, Glezerman teaches the eyeglasses of claim 1, wherein the microphone is directional and oriented toward a user's mouth when wearing the eyeglasses, and the speaker is disposed adjacent to and oriented toward a user's ear when wearing the eyeglasses (see fig 3).

Regarding claim 4, Glezerman teaches the eyeglasses of claim 1, further comprising a first extension arm coupled to the eyeglasses frame, wherein the microphone is coupled to the extension arm (see fig. 3).

Regarding claim 5, Glezerman teaches the eyeglasses of claim 4, wherein the first extension arm is telescopic (see fig. 3).

Regarding claim 6, Glezerman teaches the eyeglasses of claim 1, further comprising a second extension arm coupled to the eyeglasses frame, wherein the speaker is coupled to the extension arm (see fg. 3).

Regarding claim 8, Glezerman teaches an eyeglasses for audio communication with a remote electronic device, comprising:

a) an eyeglasses frame having a lens holder and two support arms (see fig 3);

b) a directional microphone coupled to one of the support arms and oriented toward a user's mouth when wearing the eyeglasses (see fig 3);

c) a transmitter coupled to the frame, in communication with the microphone, and adapted to send radio signals to the remote electronic device (see fig 5 and section [0027]);

d) at least one speaker coupled to one of the support arms and disposed adjacent to and oriented toward the user's ear when wearing the eyeglasses (see fig 3);

e) a receiver coupled to the frame, in communication with the speaker, and adapted to receive radio signals from the remote electronic device (see fig 2 and section [0027]); and

f) a power source electrically connected to the transmitter and to the receiver (see section [0028]).

Regarding claim 15, Glezerman teaches a wearable device for use with an eyeglasses frame and for audio communication with a remote electronic device, the wearable device comprising:

a) a member (e.g. communication headset 100) having at least one connector adapted to removably mount the member onto the eyeglasses frame (see fig 3);

b) a microphone coupled to the member (see fig 3);

c) a transmitter coupled to the member, in communication with the microphone, and adapted to send wireless signals to the remote electronic device (see fig 5 and section [0027]);

d) at least one speaker coupled to the member (see fig 3); and

e) a receiver coupled to the member, in communication with the speaker, and adapted to receive wireless signals from the remote electronic device (see claim 8).

As to claims 9-11, they are rejected for the same reasons set forth to rejecting claims 4-6, respectively.

As to claims 23-24, they are rejected for the same reasons set forth to rejecting claim 1.

As to claims 25-27, they are rejected for the same reasons set forth to rejecting claims 3-4 and 6, respectively.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glezerman (Pub. No. US 2002/0098877 A1).

Regarding claims 7 and 12, Glezerman teaches means 130 for pivoting the arm 100 (see fig 5). Therefore, using Glezerman's teachings to pivot an extension arm for conveniently moving desired object would be obvious.

Regarding claims 13-14, Glezerman fails to teach the battery in the form of screw-in and the speaker in the form of bone-type. However, the use of the recited features is just a desired choice.

Allowable Subject Matter

6. Claims 16-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art in general:

U.S. Pat. No. 5,020,150

U.S. Pat. No. 5,335,285

U.S. Pat. No. 5,606,743

U.S. Pat. No. 5,608,808

U.S. Pat. No. 6,456,721

Pub. No. US 2002/0118825 A1

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bing Bui whose telephone number is (703) 308-5858. The examiner can normally be reached on Monday through Thursday from 7:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on (703) 305-4731. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306

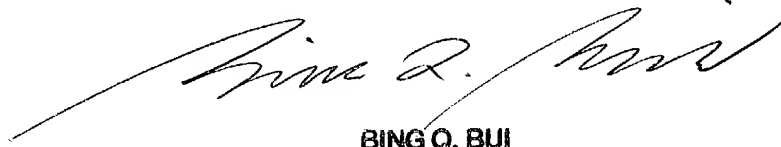
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and for formal communications intended for entry (please label the response

EXPEDITED PROCEDURE) or for informal or draft communications not intended for entry (please label the response "PROPOSED" or "DRAFT").

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Oct 07, 2004

A handwritten signature in black ink, appearing to read 'Bing Q. Bui', written in a cursive style.

**BING Q. BUI
PRIMARY EXAMINER**